

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6646

BILL NUMBER: HB 1304

NOTE PREPARED: Jan 12, 2008

BILL AMENDED:

SUBJECT: Diesel Fuel Inspection Program.

FIRST AUTHOR: Rep. Cherry

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

STATE IMPACT	FY 2008	FY 2009	FY 2010
State Revenues		93,300	93,300
State Expenditures		90,500	90,500
Net Increase (Decrease)		2,800	2,800

Summary of Legislation: This bill requires the State Department of Health (ISDH) to establish an inspection program to enforce compliance with the quality and performance standards adopted by the American Society for Testing and Materials (ASTM) for petroleum diesel fuel, biodiesel, and blended biodiesel. The bill establishes the Diesel Fuel Inspection Fund. It also imposes registration fees and authorizes the ISDH to impose civil penalties for certain violations.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Summary:* This bill would require the Indiana State Department of Health to establish an inspection program for diesel fuel and biodiesel fuel similar to the existing Motor Fuel Inspection Program that tests the octane rating of gasoline sold at motor fuel outlets. Inspection of blended biodiesel fuel would be added to the program when standards are adopted by the ASTM. If one inspector is added to the existing Motor Fuel Inspection Program along with associated operating expenses and equipment, the cost of the diesel inspection program is estimated to be \$90,500 annually. An annual registration fee of \$85 would be necessary to fund the costs of the program. This estimate does not include

inspection of wholesale distributors. If the actual fuel sample rejection rates exceed the minimum estimates, the cost of the program could be substantially more.

Background and Additional Details:

Operating Costs: The ISDH reports that there are 998 diesel fuel outlets in the state. The bill requires that samples are to be collected on a random basis for testing and analysis. If it is assumed that one inspector would be sufficient to do random testing, one inspector could be added to the existing Motor Fuel Inspection Program at an estimated annual cost of \$53,602 for salary and benefits. Other necessary equipment, materials and supplies, and travel costs are estimated to require \$20,610 annually. If approximately 30% of the diesel fuel outlets are inspected annually and fuel sample rejection rates are similar to those experienced by the Motor Fuel Inspection Program, outside testing costs are annually estimated to be \$7,300. Annual operating costs for the new program and one inspector are estimated to be \$81,500.

Startup Costs: ISDH has reported that an inspector would require a specially equipped vehicle for collecting and transporting samples at a cost of \$35,000. A required diesel fuel analyzer would cost \$20,000. If the life of the assets is considered and amortized, the annual cost would be \$9,000.

Outside Testing Costs: Samples rejected by the in-house diesel fuel analyzer would be sent out to a private laboratory for further testing. ISDH reports that the additional testing for rejected samples of regular diesel fuel cost \$724; biodiesel samples cost \$2,250. The number of diesel and biodiesel fuel samples that may be rejected is not known. However, the octane testing program experience was 20 samples rejected for about 1,000 samples tested. This is a rejection rate of about 2%. If 30% of the diesel fuel outlets are inspected annually, a rejection rate of 2% would result in about seven rejected samples and approximately \$5,100 in additional testing costs. If the rejection rate were as high as 20%, additional testing costs would be \$43,400 for diesel fuel samples. Biodiesel is not as widely distributed as diesel fuel. The National Biodiesel Board has 60 outlets listed on their website. Other sources indicate that biodiesel is available in all Indiana counties. If it is assumed that there are 100 biodiesel outlets and 30% would be annually inspected, application of the same 2% to 20% rejection rates assumed for diesel fuel would yield additional testing cost estimates in the range of \$2,250 to \$13,500. Increasing availability of biodiesel fuel would be expected to increase the outside testing costs incurred by the program and lower the percentage of annual inspections. Outside testing costs for blended biodiesel fuel would have to be added to the program when standards are adopted by the ASTM.

The Existing Motor Fuel Inspection Program: The Motor Fuel Inspection Program currently has three full-time employees assigned to the account as inspectors. Two of these positions are funded from the Motor Fuel Inspection Fund; the third is funded from the ISDH administration appropriation. The ISDH reports that there are 3,028 gas station locations in the state. The program inspected 1,135 motor fuel samples last year for an average of 378 samples per inspector. ISDH reports that each year about 1,000 motor fuel outlets are randomly selected for inspection, about 33% of the total outlets. Consequently, some outlets may be inspected every year, others may be skipped a year or two. The Motor Fuel Inspection Program reported that the octane rejection rate for gasoline samples in FY 2006 was 20, or about 2% of the total samples taken. Rejected samples are sent to a private lab for further testing. The Motor Fuel Inspection Program was reported to have total costs of \$189,632 in FY 2007; \$68,429 was from the ISDH administration appropriation and \$121,203 was funded from the Motor Fuel Inspection Program.

The ISDH administrative appropriations were made from the state General Fund and the dedicated Tobacco Master Settlement Agreement Fund for FY 2008 and from the state General Fund for FY 2009.

Explanation of State Revenues: *Diesel Fuel Inspection Fund:* The bill establishes the dedicated, nonreverting Diesel Fuel Inspection Fund to facilitate compliance with and enforcement of the standards established by the bill. The fund is to consist of registration fees paid by diesel fuel outlets and any civil penalties assessed for violations of certain provisions of the bill.

Registration Fees: The bill authorizes the ISDH to establish an annual registration fee for each diesel fuel outlet that produces, sells at wholesale, or sells diesel fuel to the public. The level of the registration fee is to be established by the ISDH in rules and will be dependent upon the costs necessary to enforce the provisions of the bill. A preliminary estimate indicates the annual fee may need to be \$85 per outlet location, which would produce annual revenue of \$93,300. [See *Explanation of State Expense* above.] For diesel fuel outlets that also sell gasoline, this fee would be in addition to the \$50 fee currently paid for octane inspection. If program costs were higher than the estimate, the fee would need to be increased correspondingly.

Civil Penalties: The bill establishes a civil penalty of \$10,000 for knowingly possessing diesel fuel that does not comply with the quality standards adopted by the ASTM. The bill also requires the ISDH to adopt rules establishing a schedule of civil penalties for specified violations. A penalty included in the schedule may not exceed \$500 per violation per day.

Background Information: The Motor Fuel Inspection Program registered 3,028 motor fuel outlets. The annual fee for registration is \$50; an additional fee of \$50 may also be charged for late registrations. Fees are distributed to the nonreverting Motor Fuel Inspection Fund to facilitate the enforcement and compliance with the Motor Fuel Inspection Program. The Motor Fuel Inspection Fund had revenue of \$158,900 in FY 2007.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: ISDH.

Local Agencies Affected:

Information Sources: ISDH, Auditor's Data Base, BudSTARS; the *Indiana Handbook of Taxes, Revenues, and Appropriations, Fiscal Year 2007*; and *Program Inventory for the Indiana State Department of Health*, 2007. The website of the National Biodiesel Board at:
<http://www.biodiesel.org/buyingbiodiesel/retailfuelingsites/showstate.asp?st=IN>.

Fiscal Analyst: Kathy Norris, 317-234-1360.